

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION OF)
) ART UNIT: 1626
RALF DUNKEL ET AL)
) EXAMINER: R. H. HAVLIN
SERIAL NO.: 10/544,897)
)
FILED: FEBRUARY 2, 2006)
)
TITLE: OXATHIINCARBOXAMIDES)

DECLARATION UNDER 37 CFR 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Ulrike Wachendorff-Neumann of Oberer Markweg 85, 56566 Neuwied, Germany, a citizen of Germany, declare as follows:

1. I am an entomologist having studied at the University of Bonn, Germany, where I received the degree of doctor rer. nat. in the year 1982; I specialized in the field of entomology and phytopathology; and I entered the employ of Bayer Aktiengesellschaft, Leverkusen, Germany, in 1982, where I have been employed in the department for the biological development of chemical compounds for plant diseases at Monheim, Germany, and after the spin-off to form Bayer CropScience AG I am now an employee of this company in the department of Global Biology Fungicides.
2. I am familiar with the subject matter of the above-identified United States patent application.
3. The following experiments with the following results have been carried out under my supervision and direction:

***Sphaerotheca* test (cucumbers) / protective**

Solvent: 24.5 parts by weight of acetone

24.5 parts by weight of dimethylacetamide

Emulsifier: 1 part by weight of alkylaryl polyglycol ether

To produce a suitable preparation of active compound, 1 part by weight of active compound is mixed with a stated amount of solvent and emulsifier, and the concentrate is diluted with water to the desired concentration.

To test for protective activity, young cucumber plants are sprayed with the preparation of active compound at the stated rate of application. After the spray coating has dried, the plants are inoculated with an aqueous spore suspension of *Sphaerotheca fuliginea*. The plants are then placed in a greenhouse at approximately 23°C and a relative atmospheric humidity of approximately 70%.

The test is evaluated 7 days after inoculation. Test results are shown in the following Tables. 0% means an efficacy that corresponds to that of the control, whereas an efficacy of 100% means that no disease is observed.

Table 1: *Sphaerotheca* test (cucumbers) / protective

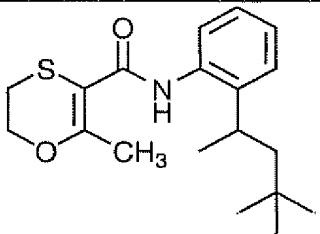
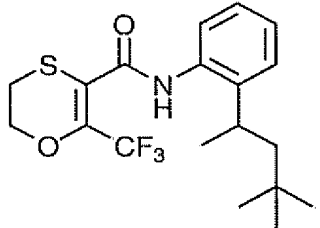
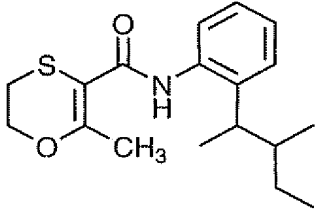
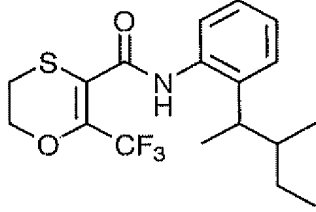
Active compound	Rate of application of active compound in ppm	Efficacy in %
Comparison compound of US 5,589,493 	100	78
Inventive compound: Example 2 of S/N 10/544,897 	100	100

Table 2: *Sphaerotheca* test (cucumbers) / protective

Active compound	Rate of application of active compound in ppm	Efficacy in %
Comparison compound of US 5,589,493 	100	57
Inventive compound: Example 94 of S/N 10/544,897 	100	93

4. The undersigned declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Signed at Monheim, this 9th day of October, 2009.


 ULRIKE WACHENDORFF-NEUMANN